

MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

HEARING ROOM A
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 16, 2001

10:00 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

CONTRACT NO. 150-99-002

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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INDEX

	PAGE
1. Consent Calendar(a, c, d)	1
b	1
2. Cooperative Personnel Services	2
3. California Cast Metals Associations	3
4. Parsons Brinckerhoff Quade and Douglas	6
5. Alternative Energy Systems Consulting, Inc.	10
6. Morpace International, Inc.	13
7. Reflective Energies	15
8. HDR Engineering Inc.	16
9-13 Renewable Resources	17
Bob Judd	23
Julia Levin	27
John Prevost	29
Kevin Boedecker	34
Nancy Rader	34
Steven Kelly	36
Kari Smith	39
14. Power Project Financing	62
15. Peters Shorthand Reporting Corporation(a-c)	64
16. Lake County Sanitation District	65
17. Three Mountain Power Project	68
18. East Altamont Energy Center	74
19. East Altamont Energy Center	74
20. Minutes	78
21. Energy Commission and Oversight	78
22. Chief Counsel's Report	78

INDEX CONTINUED

	PAGE
23. Executive Director's Report	78
24. Public Adviser's Report	82
25. Public Comment	82
26. Modesto Irrigation District	74
Adjournment	82
Reporter's Certificate	83

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1 PROCEEDINGS

2 CHAIRPERSON KEESE: Call the meeting of the
3 Energy Commission to order. Commissioner Laurie, would
4 you lead us in the pledge, please.

5 (Thereupon Commissioner Laurie led the
6 pledge of allegiance.)

7 CHAIRPERSON KEESE: Thank you. We have the
8 consent calendar before us. Item 1B, Mircropas is removed
9 from the consent calendar. It will be taken up as our
10 first item of business. Do I have a motion on the consent
11 calendar, Items A through D?

12 COMMISSIONER MOORE: Move consent.

13 COMMISSIONER PERNELL: Second.

14 CHAIRPERSON KEESE: Motion by Commissioner Moore,
15 seconded by Commissioner Pernell.

16 All in favor?

17 (Ayes.)

18 CHAIRPERSON KEESE: Adopted four to nothing.

19 The Micropas6, version 6.0, which was Item B was
20 recommended to be decertified effective August 1st, 2001.
21 This moves the transmission to the new program. The
22 building industry has requested this decertification be
23 changed to January 1st, 2002. I believe the Efficiency
24 Committee concurs with this request and supports the
25 decertification as of January 1st, 2002; is that correct?

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1 COMMISSIONER PERNELL: That is correct, Mr.
2 Chairman.

3 CHAIRPERSON KEESE: Would you like to make a
4 motion on that item that would be Item B of the consent
5 calendar.

6 COMMISSIONER PERNELL: Mr. Chairman, I would move
7 Item B, which was located on the consent calendar.

8 CHAIRPERSON KEESE: Motion by Commissioner
9 Pernell.

10 COMMISSIONER MOORE: Second.

11 CHAIRPERSON KEESE: Second by Commissioner Moore.

12 Any discussion?

13 All in favor?

14 (Ayes.)

15 CHAIRPERSON KEESE: Opposed?

16 Adopted four to nothing.

17 Thank you.

18 Item 2, Cooperative Personnel Services. Possible
19 approval of Contract 200-00-007 Amendment 1, extending the
20 term through September, which will ensure the completion
21 of all tasks and allow for delays due to labor
22 negotiations.

23 Good morning.

24 MR. LaFRANCHI: Hi. I'm Betty LaFranchi and I'm
25 here to request your approval for a four month no cost

1 plan extension for this contract. It was delayed
2 initially to some time delays at the Department of General
3 Services during the approval period. And also the staff
4 have been asking, as part of this contract, to submit
5 survey responses to the contractor and give them the
6 workload within the Commission.

7 The response to the surveys has been slow. So
8 for those two reasons we have to come before you and ask
9 for an extension.

10 CHAIRPERSON KEESE: Any problems here?

11 Do I have a motion?

12 COMMISSIONER MOORE: Move the extension.

13 CHAIRPERSON KEESE: Motion Commissioner Moore.

14 COMMISSIONER ROSENFELD: Second.

15 CHAIRPERSON KEESE: Second Commissioner

16 Rosenfeld.

17 All in favor?

18 (Ayes.)

19 CHAIRPERSON KEESE: Opposed?

20 Adopted five to nothing.

21 Thank you.

22 Item 3, California Cast Metals Association.

23 Possible approval of contract 500-00-012 for \$126,606 to
24 develop energy efficient metal melting methods and
25 operating procedures for the metal casting industry of

1 California.

2 MR. KAPOOR: I am from the PIER program, and the
3 staff recommends this particular contract for \$126,600 for
4 the California Cast Metal Association.

5 This is an industry which is heavily dependent on
6 using electricity for making metal. They have about 400
7 members in the industry. The Association has got 140
8 members. And the capacity for each furnace ranges from a
9 half a megawatt to ten megawatts.

10 The industry came to us and said can we help them
11 with these opportunities with savings, especially for this
12 summer, so there will really be a fast-track project and
13 it's a cost share project to the industry.

14 Hopefully, this will allow them to either shift
15 their timing for operations or reduce the load or a
16 combination of both.

17 Staff recommends this item.

18 CHAIRPERSON KEESE: Thank you.

19 Commissioner Rosenfeld.

20 COMMISSIONER ROSENFELD: I move the item.

21 CHAIRPERSON KEESE: Motion by Commissioner
22 Rosenfeld.

23 COMMISSIONER LAURIE: Second.

24 CHAIRPERSON KEESE: Second by Commissioner
25 Laurie.

1 COMMISSIONER PERNELL: Mr. Chairman, on the
2 question.

3 CHAIRPERSON KEESE: Commissioner Pernell.

4 COMMISSIONER PERNELL: Will there be a report
5 developed as a result of this contract?

6 MR. KAPOOR: From the industry members yes, the
7 information will be in various operating practices as well
8 as CD Rom and distributed to the Members, but, yes, there
9 will be a report.

10 COMMISSIONER PERNELL: And will that be
11 distributed to us? I mean, will the Commission get a copy
12 of it?

13 MR. KAPOOR: They will get a copy of that, but it
14 won't be a Commission publication, unless you so desire,
15 data history of actually us working with the industry 20
16 years ago, when there was natural gas problems and energy
17 prices were going up, again, both with us. They wrote a
18 document and had a report, which was distributed. That
19 was a commission publication. So, yes, we can do that
20 again.

21 COMMISSIONER PERNELL: Yeah, I'm not advocating
22 that it be part of our publication, but certainly if
23 there's a report, we should have that report here in the
24 library or somewhere at the Commission.

25 MR. KAPOOR: Yes.

1 COMMISSIONER PERNELL: Okay. Mr. Chairman, thank
2 you.

3 CHAIRPERSON KEESE: Thank you.

4 We have a motion and a second.

5 All in favor?

6 (Ayes.)

7 CHAIRPERSON KEESE: Opposed?

8 Adopted five to nothing.

9 Thank you.

10 Item 4, Parsons Brinckeroff, Quade and Douglas.
11 Possible approval of contract 500-00-014 for \$478,000 to
12 complete the research and develop the PLACE3S Community
13 Energy Planning program.

14 COMMISSIONER PERNELL: Mr. Chairman, this is a
15 program that I've been following since I've been at the
16 Commission quite a bit. I think it is timely. We're
17 actually looking for other avenues for funds. And I will
18 have staff brief the Commission if -- not brief, but at
19 least talk about the program, if necessary.

20 But let me just say that PLACE3S has a number of
21 successes and we're planning on doing something in
22 Sacramento. We have a number of legislators that are
23 interested in this program. And if the Commission has no
24 questions, I would certainly move the item.

25 COMMISSIONER ROSENFELD: Second.

1 CHAIRPERSON KEESE: Motion by Commissioner
2 Pernell, seconded by Commission Rosenfeld.

3 Any questions?

4 COMMISSIONER MOORE: I don't have any questions,
5 Mr. Chairman, but I have a comment on the motion. And I
6 know that Nancy has worked very hard to make sure that
7 this happens and has happened over time. I just want to
8 stress the relationship between land-use planning as
9 exemplified by this program and the energy crisis will not
10 ever, not in this world, be able to build our way out of
11 that kind of a crisis unless we get a handle and hands
12 around the land-use contribution of this.

13 If there is no coordinated action on the part of
14 the State and local governments, if we build a power plant
15 a week, we're never going to get ahead of the nature of
16 and the extent of demand increases in the so-called core
17 customers and the related non-core customers that are
18 growing in the state.

19 So PLACE3S is a tool that will help us get there.
20 Whether or not the appropriate decision makers take
21 advantage of it, of course, is a different question, but
22 it is clear to me that without the expansion and extension
23 of tools like this, we're simply going to be fighting
24 rearguard action on this end, and we can only hope to not
25 do that.

1 So this is a very valuable tool. It seems to me
2 we just need to start making sure that it gets in the
3 hands of people who can use it. I think we passed the
4 various theory phase. We need to start disseminating this
5 and make sure that people who can make use of it actually
6 do make use of it in the future. And that's the local
7 planners at the county and city level with some backing by
8 the State.

9 Thank you.

10 MR. BOYD: Mr. Chairman.

11 CHAIRPERSON KEESE: Mr. Boyd.

12 MR. BOYD: I would just like to concur 100
13 percent with Commissioner Moore's comments. I couldn't
14 agree more about how critical land-use planning is to the
15 future and to proper decision making about a lot of what
16 it is we find ourselves dealing with today. Some cases I
17 reflect back in history and think that poor land-use
18 planning is the most original sin when it comes to a lot
19 of the issues we're having to meet today.

20 So I concur in what he said and I urge Mr. Larson
21 and the staff to do everything in their power to market
22 this product. I've seen it. I've seen people briefed on
23 it. It's extremely good, but we're going to have to push
24 real, real hard to get folks to pay attention to it.

25 CHAIRPERSON KEESE: I concur.

1 COMMISSIONER LAURIE: Mr. Chairman, thus far our
2 legislature has rejected land-use proposals in dealing
3 with the current energy issue. In the last year or
4 longer, siting staff has worked with the Siting Committee
5 on some ideas, recognizing that land use is key to energy
6 issues, as it is key to housing, as it is key to
7 transportation, as it is key to water.

8 We were following the legislature's actions in
9 regard to the issues that it had before them, recognizing
10 that there is unlikely to be a legislative proposal
11 addressing the land-use element or the land-use issue this
12 year. We will have time to come up with our own
13 proposals. And I would encourage Siting Committee or
14 siting staff to think about that. The Siting Committee
15 will address this issue. I think we should come up with
16 our own land-use proposal as to what we think the proper
17 role of the State should be and including energy
18 considerations in land-use decisions.

19 Thank you.

20 CHAIRPERSON KEESE: Thank you. I think the
21 Commission is reasonably aware of this issue.

22 Do I have a motion?

23 COMMISSIONER MOORE: You have a motion and a
24 second.

25 COMMISSIONER ROSENFELD: I second.

1 CHAIRPERSON KEESE: We have a motion and a
2 second. All in favor?

3 (Ayes.)

4 CHAIRPERSON KEESE: Opposed?

5 Adopted five to nothing.

6 Thank you.

7 Item 5, Alternative Energy Systems. Possible
8 Approval of a follow-on Contract 500-00-0014 for \$499,970
9 to demonstrate in the Intelligent Software for control and
10 scheduling of one or more distributed energy resources and
11 enabling technology that will make it cost effective to
12 have a small generation source available for dispatch by
13 the ISO and the utility.

14 Good morning.

15 Will you briefly explain this.

16 MR. PATTERSON: Yes. I'm Jamie Patterson. Staff
17 requests approval. We have identified that this software
18 will allow the generator to be unmanned and remotely
19 dispatched, which will reduce costs. We believe that it's
20 an enabling technology that will facilitate the
21 introduction of distributed energy resources into the
22 marketplace by reducing their cost of operation. The
23 software also works with curtailable loads.

24 Any questions?

25 COMMISSIONER ROSENFELD: I move approval.

1 MR. PATTERSON: It's intelligent software.

2 CHAIRPERSON KEESE: Commissioner Rosenfeld moves.

3 COMMISSIONER LAURIE: Second.

4 CHAIRPERSON KEESE: Commissioner Laurie seconds.

5 Any other questions.

6 COMMISSIONER PERNELL: I have a question, Mr.

7 Chairman.

8 CHAIRPERSON KEESE: Commissioner Pernell.

9 COMMISSIONER PERNELL: This software works on
10 distributed generation. Are we talking about -- what size
11 are we talking about? Are these like smaller diesel
12 generators or are we talking about hybrids or fuel cells?

13 MR. PATTERSON: The software is scalable. It
14 will work for the small diesel generators that many people
15 have. It will also work if you have multiple generators.

16 It works very similar to what you would imagine a
17 realtor works. You give it initial input of your
18 parameters and what it does is it makes actual decisions
19 for you. It can allocate multiple generation sources, so
20 if you have, say, various sites which may have like a fuel
21 cell versus a turbine versus a diesel generator, it will
22 allocate which one, based on your cost, to make available
23 to the ISO or the utility. It bids actively into the
24 market. It keeps track of the market and knows exactly
25 where to go to get its pricing information, so it can make

1 a decision whether it is more advantageous for a small
2 generator to have say to bid into like the spinning
3 reserve versus the nonspinning reserve, depending on what
4 it does.

5 It does a little bit of forecasting, basing on
6 the idea that maybe at 10:00 o'clock, just because your
7 load in your building is not quite up very high, it will
8 look at weather data, and say well at 2:00 o'clock you may
9 need the entire unit available to run your building. So
10 it will not bid a hundred percent of your unit for the
11 2:00 o'clock timeframe.

12 It's quite intelligent, and it works across a lot
13 of different segments of the marketplace, from the very,
14 very small generators all the way up to some of the large
15 generators. But we're looking at it in terms of the small
16 ones, which is particularly advantageous, because they're
17 the ones that can't afford to have a person actually stand
18 by and keep track of the pricing in a RealTime basis in
19 order to do the dispatch. It's just cost prohibitive to
20 do that.

21 COMMISSIONER PERNELL: Right, can it look at
22 environmental concerns, so if -- can it call up the
23 cleanest distributed generation units first? You
24 mentioned that it can distinguish between price, and I
25 guess my question is can it distinguish between emissions?

1 MR. PATTERSON: Oh, yes it can. If you have a
2 bad air day, which is important, you know, down in LA or
3 someplace like that, then yes, it would. This will lock
4 out, based on, you know, whether or not a generator would
5 be allowed to run during that time.

6 COMMISSIONER PERNELL: Thank you, Mr. Chairman.

7 CHAIRPERSON KEESE: Thank you, Commissioner
8 Pernell. We have a motion and a second.

9 Any further comments?

10 All in favor?

11 (Ayes.)

12 CHAIRPERSON KEESE: Opposed?

13 Approved, thank you, five to nothing.

14 Item 6, Morpace Inc. Possible approval of
15 Contract 300-00-08 for \$725,983, that's a change from the
16 printed agenda, to collect transportation survey data to
17 update the Energy Commission's transportation forecasting
18 model and to support the Commission Advanced and Efficient
19 Vehicle Incentive Program.

20 MR. KAVALEC: Yes. I'm here asking for approval
21 for the go ahead for the California Vehicle Survey as well
22 as our choice of contractor Morpace International. The
23 survey, as you mentioned, would serve two purposes, to
24 update our forecasting model data and also to support the
25 Commission's efficient vehicle incentive program.

1 The contract would begin in June. The survey
2 would be out in the field by October, and it would be
3 complete in December and the contract would wrap up early
4 next year.

5 The reason that the contract is now listed at
6 \$726,000 rather than \$526,000 is that \$200,000 in
7 supplemental funds from other organizations may become
8 available during the contract term. It's not very likely,
9 but the contract office felt it should be put in at 726,
10 but the \$200,000 would be from other organizations, if it
11 were to come in.

12 And if we did get that \$200,000, it would be used
13 to increase the sample size and/or the breadth of the
14 survey questionnaires.

15 CHAIRPERSON KEESE: Thank you. And this has been
16 reviewed by committee and supported by the Committee?

17 COMMISSIONER MOORE: Yes. I move approval.

18 CHAIRPERSON KEESE: Commission Moore moves
19 approval.

20 COMMISSIONER ROSENFELD: Second.

21 CHAIRPERSON KEESE: Second by Commissioner
22 Rosenfeld.

23 All in favor?

24 (Ayes.)

25 CHAIRPERSON KEESE: Opposed?

1 Adopted five nothing.

2 Thank you.

3 Item 7, Reflective Energies. Possible approval
4 of contract 500-00-13 for \$1,364,788 to research the
5 impacts of distributed generation technologies on the
6 electrical distribution system, evaluate the efficiency of
7 the new Rule 21 Interconnection Requirements and develop
8 specifications for distributed generation database for the
9 PIER program.

10 MR. RAWSON: My name is Mark Rawson. I'm with
11 the Strategic Area and PIER Program. We're seeking your
12 approval for this follow-on sole source contract with
13 Reflective Energies for a little over \$1.3 million to
14 build on the success of our first contract, which resulted
15 in the successful adoption of the revised Rule 21
16 Interconnection Requirements for distributed generation
17 technologies.

18 Under this project, we'll continue to work with
19 the industry working group, which is comprised of
20 manufacturers, government entities and the utilities to
21 further refine and improve upon the Rule 21
22 Interconnection Standards. A large portion of this
23 contract will be to conduct case studies of up to 12
24 installations of DG technologies that have happened under
25 the new revised rules and monitor how those customers fair

1 through this revised interconnection process.

2 Secondly, we'll instrument these DG systems and
3 monitor their impact on the distribution system. All this
4 information will be fed back through the interconnection
5 working group to make revisions both to the State's rule
6 21 requirements at the PUC as well as up to the national
7 level to the IEEE who are establishing national standards
8 for interconnection.

9 CHAIRPERSON KEESE: Thank you.

10 Do I have a motion?

11 COMMISSIONER ROSENFELD: It's a PIER project, I
12 move it.

13 COMMISSIONER LAURIE: Second.

14 CHAIRPERSON KEESE: Commissioner Rosenfeld moves,
15 Commissioner Laurie seconds.

16 All in favor?

17 (Ayes.)

18 CHAIRPERSON KEESE: Opposed?

19 Adopted five to nothing.

20 Thank you.

21 Item 8, HDR Engineering Inc. Possible approval
22 of contract 400-97-005 Amendment 2 for \$78,000 to provide
23 additional technical assistance for water and wastewater
24 facilities throughout the State as they seek to reduce the
25 impact of rising energy prices.

1 COMMISSIONER LAURIE: I move the recommendation,
2 Mr. Chairman.

3 CHAIRPERSON KEESE: Motion by Commissioner
4 Laurie.

5 COMMISSIONER MOORE: Second.

6 CHAIRPERSON KEESE: Second by Commissioner Moore.
7 Brilliant presentation.

8 (Laughter.)

9 All in favor?

10 (Ayes.)

11 CHAIRPERSON KEESE: Opposed?

12 Adopt five to nothing.

13 Thank you.

14 Item 9, Renewable Resources. Possible approval
15 of changes to Volume -- Commissioner Moore, are we going
16 to take --

17 COMMISSIONER MOORE: Nine through 13 are all
18 inter-related. And if you'll allow us to make a brief
19 presentation, I think we can show the interrelationship
20 and then go back and take the items one at a time for a
21 vote.

22 CHAIRPERSON KEESE: I will then call Item 9,
23 Renewable Resources, approval of changes to Volume 1 of
24 the guide book; Item 10, possible approval of changes to
25 Volume 3 of the guide book; Item 11, possible approval of

1 changes to the overall guidelines for the program; Item 12
2 potential authorization of a third auction for new
3 renewable resources; and Item 13 possible approval of
4 changes to Volume 1 and 2 of the guidebook.

5 I think it would be best at the end of this, if
6 we vote on Items 9, 10, 11 and 13 and then vote on Item 12
7 separately.

8 COMMISSIONER MOORE: Right, I concur with that.
9 And let me just offer brief introductory remarks and then
10 turn to Marwan Masri and Gabe Herrera to amplify on what
11 we're bringing forward to you.

12 As you know, the Renewable Programs has been in
13 operation, now, almost four years and has been very, very
14 successful in achieving our original goals as outlined in
15 AB 1890 and as codified in SB 90.

16 We now have some additional challenges due to AB
17 995 and other programs that the Commission is
18 administering. And in response to that, we have been
19 modifying our guidelines to keep up with changed
20 conditions or to correct problems that we've had come up.
21 And we have also tried to respond to changes in market
22 conditions that necessitate moving money from one account
23 to another in order to accommodate shortfalls or to try to
24 stimulate market activity where it's needed.

25 With that in mind, we had proposed a second and

1 third set of auctions. The second auction came about and
2 was very successful. We intend to promote another auction
3 and perhaps yet another one in the fall to try and address
4 conditions that are emerging in the market that we can
5 identify.

6 As you know, this matter came up two weeks ago,
7 and there was a question about whether or not we had the
8 authority to do what we were intending to do or to, in
9 fact, take on some of the tasks that were recommended to
10 us by members of the public.

11 Having said that, what you have in front of you
12 are a series of changes to the guidebooks, but also really
13 a change in philosophy that needs to be approved or
14 disapproved by the Commission to allow us to go forward
15 with one of our more successful programs, that is the
16 auction for new facilities.

17 In addition, and finally, we have a new bill 29X
18 that requires us to address the emerging renewable area.
19 And we have proposed changes in the guidebook and changes
20 in the program to address that.

21 And having said all that, let me turn to Marwan
22 Masri and ask for some comments about the individual items
23 and then turn to our attorney, Mr. Herrera, and ask him to
24 address the legal question that came up at the last
25 business meeting where this appeared.

1 Mr. Masri.

2 MR. MASRI: Thank you, Commissioner Moore. Good
3 morning, Commissioners. The changes in Items 9 through 13
4 before you today, as Commissioner Moore mentioned, some
5 have to do with the emerging account. In response to 29X,
6 that bill directs the Commission to transfer from within
7 the renewable trust fund \$15 million and deposit it into
8 the emerging account, the distributed generation account.

9 And that's what Item number 9 is, is to implement
10 that directive. It would reallocate \$15 million from
11 rollover money in the existing account, meaning unused
12 money, to respond to that directive.

13 Item 10 is to have you approve raising the level
14 of rebate for emerging technologies and distributed
15 generation. It's currently \$3 per watt for small systems
16 also less, \$2.50 per watt for larger systems. And this
17 change we use augmentation of the money and implement the
18 phasing rebates to \$4.50 per watt for all systems.

19 For Item number 11, I'll let Gabe address that a
20 little bit clearer. Basically, it's a streamlining item
21 to simplify the process by which petitions are made to the
22 Committee for reconsideration of the amount of awards.

23 Item 12 is to ask you to authorize a third
24 auction from the renewables account. As Commissioner
25 Moore indicated we had a first auction, then we had a

1 second auction last November, using unused money in the
2 existing account. We got oversubscribed. There's about
3 136 megawatts that actually responded with the money that
4 we had allocated for that. So we know there is potential
5 for new development out there to help with the current
6 situation in California.

7 Eleven and 12 ask you to approve two things. One
8 reallocate to exercise the authority granted to you by SB
9 90, and Gabe can elaborate on that, to reallocate money
10 among accounts depending on market conditions and account
11 needs, to reallocate up to \$50 million from rollover money
12 in the existing account to conduct a third auction. And
13 we're ready to proceed with that as soon as we get the
14 authorization, and then approve changes in our guide book
15 that would implement that authorization.

16 That basically summarizes the items before you
17 today. And I'd be happy to respond to any questions you
18 may have.

19 COMMISSIONER MOORE: Perhaps we can ask Gabe to
20 amplify on the legal question, and then have --

21 CHAIRPERSON KEESE: We have a number of witnesses
22 in the audience, so why don't we hold further comment
23 until we've heard from them, too.

24 Gabe.

25 STAFF COUNSEL HERRERA: Yeah, let me just touch

1 on Item 11. What that does is to modify the process, as
2 Marwan mentioned. Right now, the process under the
3 Commission's adopted guidelines is for the Committee to
4 listen to a petition for reconsideration through a
5 hearing. What we're doing now is to modify that process
6 to give the Committee discretion to hear petitions for
7 reconsideration, based on the written submittals of the
8 parties.

9 That process is consistent with the Department of
10 General Services process when it comes to renewing
11 contract protests, so that's hopefully well and good.

12 The other issue deals with the point that Mr.
13 Judd raised, I believe, the last business meeting and the
14 business meeting before that dealing with the way in which
15 the Commission calculates market clearing prices, and
16 thereafter determines the prices that are paid for
17 existing renewable generators, through the existing
18 accounts.

19 What he is proposing is that we base market
20 clearing price calculations on what they're actually paid
21 by the utilities rather than by SRAC. The reason we use
22 SRAC right now is because SB 90 says specifically that we
23 needed to determine prices based on the amount paid as
24 provided in Section 390. And Section 390 in the Public
25 Utilities Code in turn identifies the SRAC methodology.

1 I've discussed this with Bill Chamberlain and
2 several other attorneys in the office and I believe Bill
3 has gotten back to you on the confirmed -- the legal
4 advice I rendered last week or two weeks ago and that was
5 the Commission doesn't appear to have authority under the
6 existing law to do what Mr. Judd is proposing.

7 CHAIRPERSON KEESE: Perhaps, yes, that's a
8 correct statement. If you're completed, we'll hear from
9 Mr. Judd and we'll find out what Mr. Judd's position is
10 today.

11 STAFF COUNSEL HERRERA: That would be fine.

12 CHAIRPERSON KEESE: Bob Judd, please.

13 MR. JUDD: Thank you, Mr. Chairman. For the
14 record, I'm Bob Judd representing the California Biomass
15 Energy Alliance.

16 To recap very briefly in the first and second
17 hearings on this issue of reallocation of funds from the
18 existing renewables account to the new renewables account,
19 we presented testimony in opposition to such reallocation.
20 We felt then and we feel now that it's premature and
21 inappropriate, that it's detrimental to the interests of
22 existing renewables, especially under current market
23 circumstances, where we find ourselves owed over \$200
24 million, with a high degree of uncertainty in the future
25 as to whether or not we will get paid.

1 We've been paid for April, period. Whether we're
2 paid for May, June, July and August remains to be seen.

3 MR. MASRI: Sorry, Bob, could you clarify the
4 payments you're referring to are from the utilities not
5 from the account.

6 MR. JUDD: Yes, indeed they are. These are
7 payments from Edison and PG&E that I've referred to not
8 payments out of the SB 90 account.

9 Our biomass industry and other existing
10 renewables are in the grips of a huge liquidity crisis
11 that threatens our ability to generate this summer and
12 beyond. You'll hear from other speakers on that point.
13 The possibility of the Edison bankruptcy still looms. We
14 are losing generation in the existing sector.

15 Just this week one of our biomass plants closed
16 down its operations because it did not have adequate
17 revenue to continue. We proposed an alternative that was
18 mentioned here earlier. We propose to use existing
19 dollars for existing projects. The basis is that we were
20 paid less than the target price of five cents in Tier 1
21 and lesser amounts in others, therefore we are eligible
22 for funding.

23 Counsel has disagreed with that, and today we
24 will not dispute counsel's recommendations to you on that
25 matter.

1 It brings us then to a different point. The CEC
2 continues to have the opportunity to support existing
3 renewables. It certainly has the opportunity, at worst,
4 to do minimal harm to existing renewables as it shifts its
5 support to other programs.

6 One way to do that, we discussed at our last
7 meeting, was to take unused funds from other accounts as
8 well as existing renewables. There may be balances
9 available in the customer credit program unused in the new
10 account and possibly in the emerging account. That is a
11 possibility.

12 Today, we're faced with two items, a \$40 million
13 reallocation proposal, at least it was \$40 million two
14 weeks ago. I just heard Marwan say it's now \$50 million.
15 What's the number?

16 Plus a \$15 million reallocation as a result of
17 the passage of AB 29X. As you know, AB 29X said
18 reallocate \$15 million from the renewable resources trust
19 fund to the emerging account to support activities there.
20 It did not say move it from the existing renewables
21 account to the emerging account. The agenda item before
22 you, for some reason, says move it from existing to the
23 emerging account.

24 We don't want to beat up emerging. We don't want
25 to beat up on the new account, they're all very important,

1 but it comes at significant expense to the existing
2 renewables who are in high stress now. I think you have
3 two options in front of you now.

4 You can, as proposed, reallocate these monies
5 according to some formula. If you reallocate them, in
6 effect, it's an irrevocable transfer of dollars. The
7 existing renewables industry sees that as an abandonment
8 in time of need.

9 Alternatively, you could borrow those monies
10 under your existing authority, that is within the various
11 accounts you can transfer funds without a permanent
12 reallocation. You could borrow money to support this \$40
13 million program from other than the new account. You
14 could borrow money to support the \$15 million program and
15 you could commit to replenish the accounts, certainly, in
16 your case the existing money, with unused funds that
17 accrue during the remainder of this year, and with funds
18 that will become available under SB -- under AB 995, the
19 first of next year, as you formulate your investment.

20 In that way, you serve your immediate purposes
21 but you replenish and demonstrate support for existing
22 renewables. The numbers are interesting, my final
23 comment.

24 When SB 90 began, the plan that all of us
25 participated and agreed to provided 45 percent of the

1 funds to exist in renewables of \$243 million. With the
2 proposals on the table now, that 45 percent would be
3 reduced to less than 27 and a half percent. It would drop
4 from 243 million to 148 million. If the first draft of
5 the investment plan that was circulated in January were
6 adopted, it would reduce existing renewables from an
7 original 45 percent to 15 percent, plus the rollover of
8 funds that remain in the existing account at the end of
9 this current cycle.

10 What's proposed today would remove that rollover
11 of funds. We find the existing renewables on a steep
12 downward slope here. And in light of the volatility of
13 market conditions, in light of the need in the industry,
14 we encourage you to borrow this money in an inter-fund
15 transfer and replenish it, if you can't support the
16 proposal that we have before you today, rather than take
17 it away and put us in a position later in the investment
18 plan or next year of then having to go and try to raid
19 somebody else's fund to replenish the existing account.
20 That puts us in a very untenable combative situation with
21 people we would rather see as allies.

22 Thank you, gentlemen.

23 CHAIRPERSON KEESE: Thank you.

24 Julia Levin.

25 MR. LEVIN: Good morning. My name is Julia

1 Levin. I'm the California Policy Coordinator for the
2 Union of Concerned Scientists. We're a nonprofit national
3 organization with over 15,000 members in California. I
4 sent a letter in on Monday on behalf of more than a dozen
5 environmental, consumer, religious and public health
6 organizations in support of increasing the amount of the
7 rebate from \$3 to \$4.50 per watt.

8 However, we would like to see some changes to the
9 proposed rule change. We believe that it's very important
10 to make renewable energy more affordable for residential,
11 municipal, nonprofit and another nonbusiness customers in
12 California. Right now, renewable energy is not affordable
13 for most nonbusiness customers, particularly residential
14 customers, municipalities, religious organizations and
15 other nonprofits, who would like to use renewable power,
16 but simply cannot afford it.

17 Therefore, for those customers we believe it's
18 very important to increase the amount of the rebate. We
19 do not think it is as important, and it would be very
20 costly to increase the amount of rebate for business
21 customers for whom there is already significant tax
22 benefits available both from the State and the federal
23 government and for whom most business customers will by
24 larger systems that are less expensive per watt to begin
25 with than the smaller systems for nonprofit and

1 residential customers.

2 We are also concerned about taking this money
3 from the existing renewables account. And we would like
4 to see the transfer of funds to the emerging and
5 renewables come from other sources or at least a variety
6 of sources so it is not at the expense of existing
7 renewables.

8 Thank you.

9 CHAIRPERSON KEESE: Thank you.

10 Mr. Prevost, John Prevost.

11 COMMISSIONER MOORE: Mr. Chairman, while this
12 gentleman is coming up, I'm going to be interested in a
13 follow-up to the previous comments from Dr. Moore.

14 COMMISSIONER MOORE: You will. And I appreciate
15 that. I've been taking notes and I'll have a response.
16 And I should point out that we have had the advantage of
17 conversations with several of the folks so that this is
18 not a total surprise. So I hope that some of the remarks
19 will go to the points that they've so thoughtfully raised.

20 CHAIRPERSON KEESE: Good morning.

21 MR. PREVOST: Good morning, Mr. Chairman, thank
22 you very much for this opportunity to speak with you. I
23 will try not to reiterate the eloquent statements of Mr.
24 Judd put forth. For the record, my name is John Prevost.
25 I'm the director of environmental services with the

1 Pacific Lumber Company in Scotia. Our company has been in
2 the business of generating electricity and steam for well
3 over 100 years, so we're not new to this. And we've been
4 around for a long time and we intend to be there for a lot
5 longer.

6 One of the things that's happened over the last
7 six or seven months is that fuel costs at the biomass
8 plants have always been high, and our costs of generating
9 have always been high, but in an attempt to generate
10 additional power, we have gone to more expensive sources
11 of fuel, such as in forest gathering, which on the coast
12 is very expensive.

13 We've done this with the expectation of some
14 increased revenues. Since December, we have not seen
15 those revenues. We have been submitting the invoices and
16 I understand what everybody is saying about market
17 clearing prices, SRAC and all that. We have not been
18 getting that money. And right now we're millions of
19 dollars in the hole.

20 As Mr. Judd pointed out, the biomass industry in
21 total is over \$200 million in the hole. And we feel this
22 money was allocated for existing renewables, a portion of
23 which was for biomass existing renewables and we're not
24 getting it. We've been below the cap or the target price
25 since December. We've never exceeded the target price,

1 the old target price of four cents let alone the new one
2 of five cents, but we've not seen any of these dollars.
3 And we're talking now about reallocating that money.

4 We need to continue to generate. We need to do
5 what we have to do to get power out the door and we're
6 working on it. Our contracts and all the renewable
7 providers have different contracts, they're all different
8 types of renewables, we have a standard -- we offer one
9 contract. We did not switch to the PX. About the time we
10 decided to make the decision, we pretty well saw that the
11 market was headed towards some place that we didn't want
12 to be, and so we stayed on SRAC and we've been on SRAC
13 since 1985.

14 So, again, I would urge you not to take money
15 from this account and to go backwards and pay it. If your
16 concern that that money will some day come back to us from
17 the utilities, put a caveat on it. If you get this money
18 through the bankruptcy proceedings, we'll cut you a check.
19 Chances are we're not going to get any of that money out
20 of bankruptcy proceedings.

21 So we would surely appreciate any assistance you
22 might give us.

23 Thank you very much.

24 CHAIRPERSON KEESE: Thank you. Let me just ask,
25 you're getting paid as of April 1st?

1 MR. PREVOST: April 6th. With PG&E, the decision
2 said to start paying them on March 27th. And with the
3 bankruptcy, they started paying on April 6th. And, yes,
4 we have been paid since April 6.

5 CHAIRPERSON KEESE: So everything you've
6 delivered after April 6th you're getting paid for.

7 MR. PREVOST: I'm talking from December until
8 that time.

9 CHAIRPERSON KEESE: No, I empathize. There's --

10 COMMISSIONER MOORE: Just for the record, when
11 you get paid, you get paid on a monthly go-back basis, you
12 don't get paid on a daily basis?

13 MR. PREVOST: We get paid on a monthly basis.
14 And in the new proceedings we requested a bimonthly
15 payment, which was an option.

16 CHAIRPERSON KEESE: Every two weeks.

17 MR. PREVOST: Yes. That was the option that we
18 exercised to get it every two weeks.

19 COMMISSIONER MOORE: Has it happened on a
20 two-week basis now?

21 MR. PREVOST: Yes.

22 CHAIRPERSON KEESE: As I understand, generally,
23 for generation after April 1st.

24 MR. PREVOST: But there's no guarantee that's
25 going to continue. Who knows? But we would surely like

1 you to look backwards at those prices that we received.

2 CHAIRPERSON KEESE: And you're getting SRAC?

3 MR. PREVOST: We're getting SRAC at the present
4 time.

5 CHAIRPERSON KEESE: So on an ongoing basis that
6 is sufficient to keep it. It's the problem with the past?

7 MR. PREVOST: Yes, sir.

8 CHAIRPERSON KEESE: And are you suggesting that
9 the action that we're taking today becomes irrevocable so
10 that the Commission does not have in its power -- should
11 the bankruptcy judge just rule tomorrow that you are out
12 and are you period not going to get paid for any of that,
13 are you suggesting that this action precludes us from
14 doing anything about that, at that time?

15 MR. PREVOST: I would suggest that if he put us
16 to the target price for those prior months and we do
17 receive funding as part of the bankruptcy proceedings, we
18 would pay that money back.

19 CHAIRPERSON KEESE: Right. But are you
20 suggesting -- what we have is a Committee proposal before
21 the Commission today. Are you suggesting that the issue
22 of your payment for, let's call it, January, February and
23 March, those three, some people have more than that, are
24 you suggesting if the bankruptcy court told us you're not
25 going to get any of that, that this commission would be

1 precluded from taking up that issue in deciding whether to
2 give you funding?

3 MR. PREVOST: Well, like Mr. Judd mentioned, it's
4 hard to do it if there's no funding. Then you've got to
5 get it from someplace else. I think we're calling these
6 excess funds and they're not excess. They're monies that
7 I think are owed out.

8 CHAIRPERSON KEESE: Thank you.

9 MR. PREVOST: Yes, sir.

10 CHAIRPERSON KEESE: Kevin Boedecker.

11 MR. BOEDECKER: Very briefly, gentlemen my name
12 is Kevin Boedecker. I've been working in the solar energy
13 industry for the last 21 years. And the approval of the
14 increased buy down from \$3 a watt to \$4.50 a watt would
15 absolutely light a rocket boost under the solar and wind
16 energy business in the State, and not only in the State of
17 California, but it would set an example nationally to lean
18 towards alternative and renewable energy. So I strongly
19 recommend increasing the buy down at \$4.50 a watt.

20 CHAIRPERSON KEESE: Thank you.

21 Nancy Rader.

22 MS. RADER: Good morning, Chairman and
23 Commissioners. My name is Nancy Rader with the California
24 Wind Energy Association. CalWEA members are a subset of
25 the California Wind Industry. We're eight of the smaller

1 independently owned companies, whose only business is wind
2 and mostly in California, primarily in southern California
3 Edison's territory.

4 We have no other source of income but the
5 payments from Edison and PG&E, so the effect of not being
6 paid from November through March has been quite
7 devastating. Our spare parts inventories have been wiped
8 out and creditors are now requiring cash upfront because
9 they see the situation that we're in, the looming
10 bankruptcy, and they're not taking credit.

11 And so we're going into the summer without the
12 ability to keep the projects running at their full
13 capacity. When something breaks, that's it for that
14 turbine.

15 The result is that the State is going to buy
16 power at 10 or 20 times the cost that we would provide it
17 for. With the bankruptcy of Edison looming, the
18 bankruptcy could happen any day either voluntarily or
19 involuntarily. The effect of not being paid for a few
20 more months could be devastating to our company and the
21 ability to continue producing.

22 If we can't meet payroll, we lose Wind smiths who
23 are very highly skilled. If they go get other jobs, it's
24 going to take a long time to replace them and train new
25 workers. The funds in the existing account provide a very

1 important safety net for us this summer in the event of
2 bankruptcy.

3 It would also help us a lot to get some help with
4 the back payment problem as has been discussed. Wind
5 projects have relatively low operating costs, but we still
6 have operating costs, and this money could really make a
7 difference, so I urge you to keep the remaining funds in
8 the existing account in that account, and I second the
9 comments of Bob Judd regarding the details of how to do
10 that.

11 Thank you.

12 CHAIRPERSON KEESE: Thank you.

13 Steve Kelly.

14 MR. KELLY: Steven Kelly with the Independent
15 Energy Producers Association. And I, too, at your last
16 meeting had raised some issues regarding the rollover and
17 particularly on a going forward basis the need to focus on
18 what existing QFs are getting paid as to what the posted
19 SRAC is. I have not seen the legal analysis that was
20 apparently developed in response to those questions. So
21 if there's an opportunity to review those, I would
22 appreciate that.

23 These are complicated issues and one of the
24 things that I think would be helpful to deal with the
25 issue about not only payments but transfers of monies

1 within the accounts, is to step back in time a little bit
2 or pause and do probably an analysis that I haven't seen
3 yet, which talks to the benefits of doing the rollovers.

4 I understand what the legislation is required in
5 29X. It calls for rollover existing funds into the
6 emerging -- or excuse me, it calls for rollover funds into
7 the emerging not necessarily from the existing.

8 But there is an important issue here about, from
9 a State perspective, the goal of the AB 1890 monies and I
10 think it's still a goal of the AB 995 monies was to try to
11 maximize the production of renewable resources in
12 California, provides environmental benefits and
13 reliability benefits.

14 And it's not clear to me that we've stepped back
15 in our assessments of reallocating monies and are looking
16 at it in terms of maximizing the output from renewable
17 generation I would urge that the Committee have a workshop
18 to look at some of the benefits from existing continuing
19 to be operational, the benefits from having options for
20 new, and looking at the value from or increasing the
21 monies for emerging.

22 Because it may come out that shifting a dollar
23 from one account to another can have a significant impact
24 on the state of California's renewable portfolio as well
25 as its reliability position in going into the marketplace.

1 I think that workshop had been missing in this
2 process. And as a result of that you're getting a lot of
3 interest being brought before you in business meetings, by
4 being properly vetted in a normal workshop forum.

5 So I would encourage that to occur. I don't
6 think that there's going to be any irrevocable harm if
7 there's a delay either in an option to renew or in the
8 transfer of existing or for providing money into the
9 emerging for the next 30 days or so, nothing is going to
10 be built, nothing is going to be built on a rooftop or
11 nothing is going to be built in a field that is going to
12 be affected by this, I don't believe.

13 It maybe that what we choose that there isn't
14 important implications for the existing resources, because
15 of the fact that they -- while they're getting paid now,
16 there is a likelihood that people perceive in the
17 marketplace that they may not be getting full payment on a
18 going forward basis in the near future. And I think
19 that's something that you need to have consideration of as
20 we try to retain the existing generation to maintain the
21 existing renewable portfolio in California.

22 That's it.

23 CHAIRPERSON KEESE: Mr. Kelly, I believe that
24 counsel is willing to share their opinion with you,
25 because I believe we've shared it with Mr. Judd. I

1 believe -- well, I won't ask -- counsel, we're quite --

2 CHIEF COUNSEL CHAMBERLAIN: Mr. Chairman, I have
3 no problem with sharing that opinion, if the Commission
4 doesn't mind it being shared. I have an attorney-client
5 relationship with you, and if you wish to waive that
6 privilege, then I'm happy to share it. I don't know if it
7 was shared with Mr. Judd. I didn't do so.

8 COMMISSIONER MOORE: I think it's appropriate. I
9 mean, it seems to me --

10 CHAIRPERSON KEESE: Actually, the language of the
11 statute speaks extremely clearly. I don't think that we
12 really have to share much of an opinion other than
13 reference the place where it says SRAC period. Now, if
14 your concern -- if there is a concern on a forward going
15 basis, and we have a problem with the past, I would
16 suggest changing the forward going situation, changing the
17 forward going climate might be a more viable way of
18 handling this.

19 But I don't hear any objection to sharing our
20 advice with you, so we will do that, but actually the
21 statute seems to speak quite clearly I believe.

22 MR. KELLY: I know of very few statutes that
23 speak clearly, but --

24 CHAIRPERSON KEESE: This one seems to --

25 MR. KELLY: -- this one may be that very one.

1 CHAIRPERSON KEESE: Kari Smith, please.

2 MR. KELLY: Thank you.

3 MS. SMITH: Good morning, Commissioners. My name
4 is Kari Smith, I represent the Powerlight Corporation.
5 We're a PV manufacturer based in Berkeley. And I'm here
6 to strongly support the increase to \$4.50 a watt and 50
7 percent buy down. I think that will have a tremendous
8 impact on our industry and also to strongly support the
9 reallocation of \$15 million into the emerging renewable
10 account. I think this is an important boost to the
11 program.

12 In addition to supporting these changes, I'd like
13 to adjust two more, and that is currently there is a
14 restriction of 60 percent of the funds must be used for
15 systems ten kilowatts and smaller and 15 percent for
16 systems 100 kilowatts and smaller and then the remaining
17 25 percent on a first-come first-served basis.

18 And I'd like to recommend that 40 percent of the
19 fund, at least 40 percent, be saved or reserved for the
20 ten kilowatt sized system and the rest be opened up to
21 first-come first-served basis.

22 Most of our systems are now easily over 100
23 kilowatts, and so we would be quickly pushed out of the
24 benefits of this program. And from our perspective, the
25 greatest benefit for the State of California comes from

1 bringing the most amount of PV on line as quickly as
2 possible, and we can do that by bringing relatively large
3 systems on line. We're currently quoting one megawatt
4 systems.

5 So, in addition, currently there's a \$2.5 million
6 cap per project on who's eligible for these funds. And
7 that's lower than a megawatt system, and we would
8 recommend that it go, at least, up to a megawatt system.
9 And that would be in line with the new legislation, part
10 of ABX 29 that allows systems up to one megawatt to net
11 meter with the utility. So we would ask not to put an
12 arbitrary cap on the size of the system due to this \$2.5
13 million cap, but at least to raise it so that the one
14 megawatt systems can benefit from the buy down.

15 And one final thing in support of what Julia
16 Levin was suggesting, we would like to ask that municipal
17 governments are also allowed a slightly larger rebate or
18 the cap would be raised for municipal governments, because
19 they can't afford to put larger systems on a single
20 project site.

21 For example, they could convert a Brown Field
22 site to a PV system or cover a reservoir to a PV system,
23 and that would count as a single project. Rather than
24 compelling them to put several projects across the city,
25 they can consolidate their resources in one larger

1 project, and it would have a greater economic value for
2 the City, because of audit and siting costs and things
3 like that.

4 Thank you very much.

5 CHAIRPERSON KEESE: Thank you very much.

6 Is there anyone else from the audience who cares
7 to comment on this issue?

8 Commissioner Moore, would you like to take us
9 through this material?

10 COMMISSIONER MOORE: I would. I need to make a
11 couple of overall remarks, which I think will address or
12 at least start to address some of the points raised by the
13 speakers.

14 So let me start by saying that when we originally
15 set up the targets versus market price relationship and
16 when we first used the SRAC definition as part of our own
17 guidelines, we had a different market in mind. We had a
18 different universe in mind, and in a sense a charge that
19 may not be valid today.

20 So let me remind you that one of the overriding
21 directions given to us by the legislature in setting up
22 the original program was to bring a competitive market to
23 the forefront at the end of the transition period. We
24 intended to have as many competitive industries on line as
25 we could at the end of the four year period, which we are

1 now approaching.

2 As a consequence, the algorithms that we designed
3 to try and create payment structures for existing
4 generators had that very famous wedge that you've seen in
5 our earlier publications designed to show those industries
6 weaning themselves off the subsidies and becoming more and
7 more competitive over time.

8 Frankly, we simply never anticipated at all that
9 there would be a condition similar to the market
10 conditions that we have today. We never anticipated the
11 prices being at the levels that they are today. And none
12 of us, in our worst nightmares, would have forecast a
13 nonpayment stream similar to what these industries have
14 experienced in the period November through March. It
15 simply never occurred to us.

16 As a consequence, none of the rules that we
17 developed and none of the guidelines that we published
18 allowed for us to be able to go back and pay for a back
19 stream of debt. So when Mr. Judd and his colleagues have
20 suggested to us that we ought to reserve money to be able
21 to pay money back for people on the basis of
22 nonperformance by the utilities, in part they are
23 reflecting an idea that came out of my office where I was
24 very frustrated at one point and was trying to imagine
25 someday to keep these industries alive.

1 So the idea that they're putting up originated,
2 at least in part, with us and was designed to say well,
3 isn't there something that we can do with the existing
4 money in its rollover account to go back and see if we can
5 diminish some of the pain.

6 I was chagrined to find out that the law wouldn't
7 allow me to do that, and I think probably chagrined at
8 least to the evaluation of what they must have felt at the
9 end, and I certainly apologize if I set anyone up by
10 trying to go down that path and not have it come to
11 fruition, but I did and I take responsibility for that.
12 I'm sorry that we couldn't find a way to do that.

13 So in response to Mr. Prevost's question whether
14 or not they were owed that money, frankly I think given
15 the performance of the market, the relationship they have
16 with the utilities, there's no question, in my mind, I'm
17 not a lawyer, but I work with these things every day,
18 there's no question in my mind that they are, in fact,
19 owed that money.

20 I don't think that they're owed that money out of
21 our accounts, because we don't have the ability under the
22 rules to pay it, especially given the SRAC relationship
23 that we're bound by and have to pay under.

24 That doesn't mean that it is fair. It certainly
25 isn't, but I don't think that the debt can come here. Now

1 what that says, if I sum up, is that our ability to pay
2 backwards for debts owed, even on a loan basis, is
3 extremely limited to nonexistent. And short of redefining
4 the SRAC relationship or the target price relationship in
5 a retrospective, we simply can't do it. As Mr. Judd
6 points out, we can, however, go forward and we can make
7 sure that whatever steps we take don't preclude having
8 enough money in the account, so that if there was a change
9 in price relationships, we would be able to support those
10 industries, given the mandate that we had previously.

11 As an economist, I don't know that the numbers I
12 see coming up forecast a price change that would have us
13 doing that. Notwithstanding the interesting graph that
14 was published from across the street, I guess a week and a
15 half ago, which showed a marvelous shift down in megawatt
16 hour price to \$60 to the State, flat over the summer, I
17 was pleased to see that come out of the State plan.

18 I don't know whether it's going to be realized or
19 not, but if it does, then I'd say we're all to the
20 benefit, and under those circumstances we may find
21 ourselves paying out money again, especially if it goes
22 down on some downward trend. I don't think it's going to
23 happen.

24 As a consequence, I don't think that there is a
25 threat to our existing fund being needed in circumstances

1 that it was originally designed to fulfill. Nonetheless,
2 it seems to me that Mr. Judd raises a point that's valid
3 for the current money that we have and even more valid for
4 the upcoming investment plan, and that's really where we
5 have to go, because we're at the end of our time, if you
6 will, with the AB 1890 funds and the SB 90 allocation of
7 those funds.

8 Mr. Judd has suggested that we, in fact, make
9 sure that we draw from other accounts first, that we
10 sequence this, and that we maintain the functionality
11 within our accounts that would allow us to pay, should an
12 emergency arise in the future, and I think that that's
13 sound advice, and I think that we can undertake to make
14 sure that that happens, that we draw backwards, as it
15 were, headed towards the existing accounts.

16 And I offer to honor that, and use that as a
17 guideline for us to take action in the future. I think
18 that that was a smart thing to do.

19 Mr. Kelly has suggested that we, in fact, go back
20 and revisit, in a workshop forum, how to maximize the
21 energy resources in light of the shift of accounts. I
22 think that's a responsible step for us to take as well. I
23 don't know that we should wait, at this point, from our
24 action to authorize an auction to go forward, because in a
25 sense, one of the key benefits that the State has enjoyed

1 out of the Renewable Program is that the renewable energy
2 industry is the only industry that's stepped up to the
3 plate in the last three years to put new megawatts on
4 line. And that's an advantage that we don't want to
5 squander. That came about largely through our new auction
6 or the two new auctions that we've had.

7 So I would hate to derail that. And yet
8 understanding how to continue to maximize our goals,
9 continue to maximize the new production coming on, is
10 critical. So I accept the idea that a workshop is in
11 order and that we ought to take testimony on how effective
12 our programs have been and use that to further refine what
13 we'll be publishing in the near term as far as a
14 recommendation of guidelines for the next investment plan
15 for the State.

16 Our recommendations on the caps on the size of
17 the systems for PV are something that will be debated by
18 the Committee. Right now, we are committed to going ahead
19 and to trying to match the Public Utilities Commission
20 program and make sure that we maximize the benefits from
21 both of those. And as a consequence, while we're not
22 recommending a change in the caps today, it's something
23 that we'll discuss in Committee and we will discuss in a
24 future workshop, especially as we get more information
25 back as the program accelerates.

1 And certainly if you look back on our original
2 projections of how the penetration of this program was
3 going to happen within the market, we have either been
4 unbelievably precedented or unbelievably lucky, but our
5 graphs match what's been happening in the real world very
6 clearly.

7 Finally, I would say in the overall remarks here
8 the emerging account may be something where we question
9 whether or not the market is actually responding, but
10 there can't be any question as to whether the Legislature
11 spoke with a clear voice on asking us to move money within
12 our existing accounts.

13 So moving that \$15 million in response to AB 29X
14 is not a judgment call on our part. It's a response to a
15 legislative mandate, and we're going to do it or we
16 recommending doing it. In response to that, we hope to
17 maximize the returns from that. Clearly, in the solar
18 area there are opportunities to make a difference and
19 there's a lot of interest on the part of consumers in
20 participating in this program.

21 Here, again, though, it seems to me that Mr.
22 Judd's point comes to the floor. And that is that within
23 our accounts we're trying to maintain the maximum amount
24 of flexibility in drawing from the back to front, in order
25 to preserve our ability to respond, should we have the

1 ability to respond to it, save some of these industries
2 and to make their lives easier.

3 The auctions take time and the payout of the
4 money, of course, is back loaded. We anticipate having
5 money come in and out of the new allocations prior to
6 these auctions actually being effective and certainly well
7 prior to paying out any money for the awards that we would
8 have given, because they follow, of course, the
9 construction of new facilities. They follow not only the
10 construction, but the actual generation of new megawatts
11 into the system.

12 What I'm saying to you is that the next set of
13 rules have the advantage of a set of knowledge about a set
14 of market conditions that we never had before. So while I
15 believe, personally, that we are constrained legally and
16 constrained logistically in trying to honor the request
17 that Mr. Judd and others have made, I tell you from my
18 heart of hearts, that I think it's a valid request for us
19 to try and address, and that the best step I think we can
20 take is to make sure that the new investment plan takes
21 that into account, makes sure that the rules are there, so
22 that as that money flows in that money is actually
23 physically the money that would be available to rescue, as
24 it were, or to supplement or augment ongoing existing
25 operations.

1 So while it may appear to be slight of hand, it
2 seems to me that it is not. It is a real response to a
3 problem that has been growing for the last few months, and
4 simply shifts the responsibility from a program built on
5 an old paradigm to a program with a paradigm to be
6 defined.

7 And that's where I hope to provide the safety net
8 for those industries. And lest anyone think differently,
9 these are critical to our energy future and certainly to a
10 future that's longer than 30 years out, when we may, in
11 fact, find gas supplies in short supply and come to rely
12 on what we've built here over the last four years.

13 So with that, Mr. Chairman, if you wouldn't mind,
14 I'd like to go through those one at a time and offer a
15 motion and a reason behind this for want --

16 MR. MASRI: I'd like to --

17 COMMISSIONER MOORE: I've either said something
18 that was a total slip up or --

19 CHAIRPERSON KEESE: Mr. Masri.

20 MR. MASRI: One clarifying comment for the
21 benefit of the Commissioners that Mr. Judd, and I
22 explained this to him, your action today is not
23 irrevocable. The rules in SB 90 allow you to reallocate
24 money based on account needs and market conditions. So at
25 the end of the year here, we have these accounts that we

1 have a true -- what's left in each account is what the
2 Commission can do is you can reallocate the money back to
3 existing if the need arises and there's money left in that
4 account. So I just want to leave with you that thought,
5 that this action you can do, at the end of year, as we do
6 through our account reallocate in the other direction.

7 CHAIRPERSON KEESE: Thank you. Commissioner
8 Moore, are you going to have any amendments here to
9 your --

10 COMMISSIONER MOORE: No, there are no proposed
11 amendments.

12 CHAIRPERSON KEESE: Are there Commissioners who
13 have questions about specific things, at this time?

14 COMMISSIONER PERNELL: I have one question.

15 COMMISSIONER MOORE: Let me just go back to Mr.
16 Masri's point for just a moment here, Commissioner
17 Pernell, if I can. And that is just to reemphasize if we
18 granted the authorization to go ahead with the auctions
19 today, and that, in effect, at least on our planning books
20 allocate that money, it does not mean that in the \$135
21 million that are upcoming on an annual basis, that should
22 the need arise to fund backwards, as it were, from today
23 for the existing accounts, that that money cannot be used
24 to fund it.

25 So the reallocation that Mr. Masri is talking

1 about is not only possible, given the funds that we don't
2 expend today, because they literally don't get spent for
3 awhile, even though they're encumbered, the actual
4 replenishment of the account that Mr. Judd was pointing
5 out, I want to make sure that everyone understands this,
6 can be done through new money coming in.

7 It's not that once we go out of this program, we
8 simply run out of money at the end of this four years.
9 The program will be refunding and we'll be using, as a
10 corrective, the investment plan that we're creating today.

11 So what he's asking for which is to effectively
12 replenish the account, if it's needed, is possible,
13 technically possible, and fiscally possible, because we do
14 have a new objection of rate-payer money coming back into
15 the account.

16 So we're not precluded from a fix should we need
17 it, and we have anticipated that.

18 CHAIRPERSON KEESE: Okay, I think Commissioner
19 Moore that --

20 COMMISSIONER MOORE: Commissioner Pernell had a
21 question, I'm sorry.

22 COMMISSIONER PERNELL: Thank you. My question
23 was for one of the speakers that dealt with the cap on
24 large systems, and I'm not sure who that was.

25 COMMISSIONER MOORE: Kari Smith.

1 STAFF COUNSEL HERRERA: Kari Smith.

2 COMMISSIONER PERNELL: Ms. Smith, I have a
3 question for, could you come to the podium, please.

4 Ms. Smith, you mentioned that there shouldn't be
5 a cap on some of the larger systems. And given the State
6 of California's challenge now, my question is, is it
7 possible to have some of these larger systems you're
8 talking about up on line this summer?

9 MS. SMITH: Yes, we're looking at many, many
10 large systems throughout the State right now. Many of our
11 customers are poised in anticipation of some of this
12 increased funding, and we've been communicating with them,
13 that there's an opportunity to increase the funding, and
14 so -- but they're waiting.

15 So one of the things that's helped us is the one
16 megawatt net metering that encourages larger systems, but
17 the buy down is also critical to the economics to help
18 them with the upfront capital costs.

19 COMMISSIONER PERNELL: Do you have any idea --
20 this might not be a fair question for you, but do you have
21 any idea of the number of megawatts that is possible from
22 some of these large systems this summer?

23 MS. SMITH: Well, like I said earlier, most of
24 our systems we're quoting are over 200 kilowatts, and
25 there are a number -- I mean, I can't give you the exact

1 number of megawatts, because I don't know what's going to
2 come in, but we are quoting numerous large systems,
3 particularly in southern California, where I think there's
4 a little bit of a higher awareness of the rate shocks.

5 So in anticipation of rates going up in June,
6 many of these customers are lining up. And so the
7 California market, really the PV market, has the potential
8 to be the largest in the country. And I think with the
9 right regulatory policies, we can really push larger
10 systems. The PUC buy down program allows systems up to a
11 megawatt to receive the buy down.

12 So what I was urging was just to raise the cap on
13 the number of kilowatts that would be eligible for this
14 money.

15 MR. MASRI: If I may clarify quickly, that is
16 something, as Commissioner Moore mentioned, the staff will
17 look at. It's not an item before you today to raise the
18 cap.

19 CHAIRPERSON KEESE: Correct. I was going to say
20 I thought I heard Commissioner Moore indicate beyond that
21 promptly.

22 COMMISSIONER PERNELL: Yeah, and that's -- I
23 mean, I guess the gist of my question is we're looking for
24 additional megawatts this summer, whether or not some of
25 the renewable systems, your PV systems, are in a position

1 to bring on additional megawatts this summer is my
2 question?

3 MS. SMITH: The answer is yes.

4 COMMISSIONER PERNELL: And whether if it's this
5 program or some other program that we have or some other
6 program some other agency has, I think it's beneficial for
7 us to look at opportunities that we might have. And so
8 that's the gist of my question, not necessarily what's
9 before us, but wherever there is opportunities we want to
10 question whether or not we can help bring those forward.

11 COMMISSIONER MOORE: Well, I think, at the price
12 change that we're talking about is going to encourage a
13 lot of that.

14 Mr. Chairman.

15 CHAIRPERSON KEESE: Thank you.

16 COMMISSIONER MOORE: With your permission I'd
17 like to take 9 and 10 together, 11 separately and 12 and
18 13 together.

19 CHAIRPERSON KEESE: Why don't you make a motion
20 on 9 and 10.

21 COMMISSIONER MOORE: Mr. Chairman, I move
22 approval on Items 9 and 10, which are the response to
23 Assembly Bill 29X and involve the changes to volume 1 and
24 volume 3 of the guide books, allowing us to move money for
25 the rebate program in the emerging program.

1 CHAIRPERSON KEESE: Motion Commissioner Moore.

2 COMMISSIONER ROSENFELD: Second.

3 CHAIRPERSON KEESE: Second Commissioner
4 Rosenfeld.

5 Any comments here?

6 All in favor?

7 (Ayes.)

8 CHAIRPERSON KEESE: Opposed?

9 Adopted five nothing.

10 COMMISSIONER MOORE: Mr. Chairman, I move Item
11 11, which is the change in our guidelines for the trust
12 fund to modify the process for petitioning denial
13 cancellation or reduction of funding awards and to give
14 the Committee discretion to consider such petitions based
15 on written submittals of interested parties. This is a
16 change in our procedures.

17 CHAIRPERSON KEESE: Procedural change, and I
18 heard no comments from the audience.

19 Motion Commissioner Moore.

20 COMMISSIONER PERNELL: Second.

21 CHAIRPERSON KEESE: Second Commissioner Pernell.

22 All in favor?

23 (Ayes.)

24 CHAIRPERSON KEESE: Opposed?

25 Approval five to nothing.

1 COMMISSIONER MOORE: Mr. Chairman, I move
2 approval of Items 12 and 13, which authorize a third
3 auction for new renewable resources and the encumbrance of
4 funds to the new renewable resources account from other
5 accounts, and I specify under other accounts, and don't
6 name them, and the authorization of subsequent auctions
7 that would be brought back to this Commission for approval
8 in the future in order to gain new renewable resources
9 within the State.

10 CHAIRPERSON KEESE: Motion by Commissioner Moore.

11 COMMISSIONER ROSENFELD: Second.

12 CHAIRPERSON KEESE: Second by Commissioner
13 Rosenfeld.

14 MR. BOYD: Mr. Chairman.

15 CHAIRPERSON KEESE: Mr. Boyd.

16 MR. BOYD: Comment. I was quite concerned two
17 weeks ago on this issue. I remain concerned today.
18 Maybe, I remained frustrated, not by anything the
19 Commission staff or the Commission is proposing to do,
20 just with our inability to deal with this.

21 I commend Commissioner Moore for all that he said
22 and the commitments that are made to look into this issue
23 in the future. I think Mr. Judd's and the industry's
24 issues are very legitimate. I am very concerned about the
25 huge effort to launch more ships while we have ships

1 sinking out there. And I just hope that the Commission
2 can aggressively pursue some means to reach out to the
3 industry that the Commission helped launch a long time
4 ago, as Commissioner Moore indicated. These are times
5 that weren't predicted by anybody.

6 And this is one of the few bodies, I've seen,
7 that even has a ghost of a chance of reaching out to these
8 people in these troubled times. And I hope we can find a
9 way to deal with that, because the signal this sends
10 nationally, if not otherwise, are at least bothersome.
11 And I appreciate staff has done all it can. I appreciate
12 the interpretation of the law. I've all the respect in
13 the world for Mr. Chamberlain and the attorneys. And I
14 just want the record to show that I hope we can proceed to
15 work diligently on this issue.

16 COMMISSIONER MOORE: Mr. Chairman, just one final
17 comment and this is in response to what Mr. Boyd was just
18 saying. I think you got a hint of how complex this market
19 is by John Prevost's comments today. The fact that
20 they're out in the forest literally getting forest waste
21 products to try and bring in with huge transportation
22 costs underlie that.

23 It's a shift that they haven't had to take in a
24 long time, and it underlines the fact that costs across
25 the Board are going up, and yet we're not looking at the

1 relationship of biomass in the, I guess, the entire scheme
2 of the economy.

3 And so while we're one piece of that puzzle, one
4 small piece, without a concerted effort to involve local
5 government to enter tipping fees for instance, or in terms
6 of solid waste disposal policies, we're going to see a
7 very vital industry threatened even more than it is.

8 So you got just a hint of that today and you're
9 looking at a small slice of the pie that we're able to
10 contribute to. Biomass spends so many other disciplines.
11 We need to keep that in mind and maybe act as a catalyst
12 here to promote action on the part of other State agencies
13 or even local agencies to make sure that this resource,
14 not only gets saved, but gets expanded, because it really
15 is a critical piece of our State future.

16 So I thank you, Mr. Boyd, for bringing that out.

17 CHAIRPERSON KEESE: Thank you.

18 Motion and second.

19 All in favor?

20 (Ayes.)

21 CHAIRPERSON KEESE: Opposed?

22 Adopted five to nothing.

23 CHAIRPERSON KEESE: I would like to just make it
24 perfectly clear that the staff of this Commission and all
25 the Commissioners have been working extremely hard since

1 late last year to try to resolve this QF situation. And
2 while we're now talking about something that is being
3 talked about in bankruptcy court and is being talked about
4 at the PUC in their orders, and we're talking about
5 backfilling, we have worked very diligently to try to
6 resolve this on behalf of the QF's right up to the point
7 where some relief was gotten on a forward going basis. I
8 don't know if that's what you intended to say, Mr. Larson,
9 but last --

10 EXECUTIVE DIRECTOR LARSON: No, Mr. Chairman.
11 I'll wait till you finish.

12 CHAIRPERSON KEESE: I think we share the concern.
13 We see the problem, and we -- I'll commit that we will
14 try -- I will try to do everything I can to resolve this
15 issue, too.

16 Mr. Larson.

17 EXECUTIVE DIRECTOR LARSON: Mr. Chairman, we need
18 a clarification on number 8. You went through that
19 without staff saying anything, and you quoted, because it
20 says so in the agenda, \$78,000. My notes say that it
21 really should be \$153,000 and staff's here to answer that
22 question.

23 CHAIRPERSON KEESE: All right. This item's
24 finished. We'll go back to Item 8. You want to give it a
25 hint first before I do anything.

1 EXECUTIVE DIRECTOR LARSON: Again, we're changing
2 Item 8 from \$78,000 to \$153,000.

3 MR. HARTLEY: Yes, I'm Mike Hartley with the
4 Energy Efficiency Division. And we wanted to extend the
5 HDR Contract budget by \$78,000. And then when we got to
6 looking at the water energy efficiency program budget
7 dollars that were available we'd like to change that
8 number and increase it to \$153,000. That will then
9 exhaust the budget before it finally closes out at the end
10 of next month, and we can get more audits and more work
11 done on HDR.

12 CHAIRPERSON KEESE: All right. I think we'll
13 take a motion to rescind our previous action.

14 COMMISSIONER LAURIE: Move.

15 COMMISSIONER PERNELL: Second.

16 CHAIRPERSON KEESE: Commissioner Laurie moves and
17 Commissioner Pernell seconds to rescind the action by
18 which we took this item up.

19 All in favor?

20 (Ayes.)

21 CHAIRPERSON KEESE: Unanimously.

22 Now we'll take up Item 8, and this will be HDR
23 Engineering Inc. And the number is?

24 MR. HARTLEY: One fifty-three.

25 CHAIRPERSON KEESE: One hundred fifty-three

1 thousand dollars.

2 COMMISSIONER MOORE: Move the revised amount.

3 CHAIRPERSON KEESE: Commissioner Laurie moves.

4 COMMISSIONER PERNELL: Second.

5 CHAIRPERSON KEESE: Commissioner Pernell seconds.

6 All in favor?

7 (Ayes.)

8 CHAIRPERSON KEESE: Opposed?

9 Adopted.

10 Thank you.

11 MR. MASRI: Mr. Chairman, just a clarifying
12 thing, did we vote on 12 and 13?

13 COMMISSIONER MOORE: Yes.

14 CHAIRPERSON KEESE: Thank you. We took them up
15 together.

16 Item 14, Power Project Financing. Possible
17 approval of contract 500-00-015, for \$120,000 to perform
18 specific financial assistance tasks for California based
19 energy companies. This is an export issue.

20 Commissioner Laurie.

21 COMMISSIONER LAURIE: Mr. Chairman, thank you.
22 Tambu will explain the program specifically, but this
23 proposal is part of the export program overall plan. The
24 amount has been budgeted for. It has been discussed in
25 Committee. The Committee strongly recommends it.

1 Tambu, if you could just take a minute or two to
2 summarize the intent of this expenditure.

3 MR. KISOKI: Thank you very much, Commissioner.
4 The funds that are working is intended to stimulate an
5 opportunity to export California technology and services
6 to international markets.

7 The purpose is to evaluate, to identify and
8 provide long-term funding options for California energy
9 companies to complete the project overseas. We believe
10 the assistance will help ten to 20 companies complete the
11 overseas project.

12 COMMISSIONER LAURIE: Thank you. Mr. Chairman
13 and Members of the Commission, we've specifically
14 identified Mexico and China, because over the last two
15 years we have targeted those areas and we have done work
16 in those areas. I anticipate in the future that
17 flexibility may require additional areas where
18 opportunities may arise.

19 So the purpose of this information is to provide
20 information and data to California businesses. The export
21 program involves other works, other types of programs
22 brokering for example, and that's not what this is. This
23 is education information to be made available to all
24 California technology companies that have export
25 capability.

1 I move the recommendation, Mr. Chairman.

2 CHAIRPERSON KEESE: Moved by Commissioner Laurie.

3 COMMISSIONER ROSENFELD: Second.

4 CHAIRPERSON KEESE: Second Commissioner

5 Rosenfeld.

6 All in favor?

7 (Ayes.)

8 Opposed?

9 Adopted five to nothing.

10 Thank you.

11 Item 15, Peters Shorthand Reporting Corporation.

12 Possible approval of contract 150-01-005 for \$25,000.

13 Possible approval of contract 150-01-006 for \$10,000 and

14 possible approval of contract 170-01-001 totaling \$45,000,

15 the number changed, to provide transcripts.

16 This is our regular services I take it?

17 SECRETARY BECKSTROM: Yes, it is. My name is

18 Lana Beckstrom. Good morning, Commissioners. In regards

19 to this item, on number C, the number was changed to

20 \$45,000 because it is just for one year. All of these

21 options or all these A, B and C have an option of the

22 second and third year.

23 COMMISSIONER PERNELL: Mr. Chairman, I move the

24 recommendation.

25 CHAIRPERSON KEESE: Motion by Commissioner

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 Pernell.

2 COMMISSIONER ROSENFELD: Second.

3 CHAIRPERSON KEESE: Second by Commissioner
4 Rosenfeld.

5 All in favor?

6 (Ayes.)

7 CHAIRPERSON KEESE: Opposed?

8 Adopted.

9 Thank you.

10 COMMISSIONER LAURIE: Mr. Chairman, I just --
11 this contract includes our hearing cases, doesn't it?

12 SECRETARY BECKSTROM: That is correct.

13 COMMISSIONER LAURIE: I'm just really happy with
14 the reporters we've had on our hearing cases. My
15 experience is they've really had their act together.
16 They've always been there and they've done a terrific job.

17 COMMISSIONER MOORE: Second.

18 CHAIRPERSON KEESE: Third.

19 COMMISSIONER PERNELL: Fourth.

20 SECRETARY BECKSTROM: Thank you.

21 CHAIRPERSON KEESE: Item 16, Lake County
22 Sanitation District. Possible approval of a \$4.5 million
23 augmentation to the Lake County Geothermal Resources
24 Development Account, GRDA from general fund.

25 MS. SISON-LEBRILLA: That's correct.

1 CHAIRPERSON KEESE: Good morning.

2 MS. SISON-LEBRILLA: Good morning. My name is
3 Elaine Sison-Lebrilla. This is a request to approve a
4 \$4.5 million augmentation to an existing Geothermal
5 Resource Development Account grant to Lake County
6 Sanitation District for the Southeast Geysers Effluent
7 Injection System project Phase 2, also known as Basin
8 2000.

9 Legislation AB 29X allocated this \$4.5 million
10 for the completion of the Basin 2000 project in Lake
11 County. This appropriation is to enable Basin 2000 come
12 on line in December 2001. It is anticipated that the
13 injection of this liquid to the geysers' steam field will
14 produce an additional ten megawatts of geothermal power,
15 which Lake County Sanitation District and its partner,
16 Northern California Power Agency, will commit to selling
17 to the State to help with the California electricity
18 crisis.

19 CHAIRPERSON KEESE: Thank you.

20 COMMISSIONER MOORE: Mr. Chairman, can I have a
21 question on this. And that is these are GRDA funds?

22 CHAIRPERSON KEESE: No, these are general funds.

23 MS. SISON-LEBRILLA: No. These are AB 29X.

24 CHAIRPERSON KEESE: The Legislature passed a \$4.5
25 million appropriation.

1 COMMISSIONER MOORE: Okay. So we're not
2 refunding that with GRDA funds?

3 MS. SISON-LEBRILLA: That's correct.

4 COMMISSIONER MOORE: How much money is left in
5 the GRDA account? It re-augments itself, so how much is
6 in the GRDA account right now?

7 MS. SISON-LEBRILLA: Currently we have a
8 solicitation for up to \$2.7 million.

9 CHAIRPERSON KEESE: That's at the current time.

10 COMMISSIONER MOORE: The reason I ask the
11 question is that I was asked by a DOE representative who
12 works in the geothermal area whether or not we would be
13 interested in cooperating on a couple of test wells that
14 would benefit geothermal resources in that area. And I
15 didn't know the answers, so it seemed to me if we ever did
16 that, it would come out of our GRDA funds.

17 COMMISSIONER LAURIE: One problem with GRDA as I
18 understand and I may be in error in this, but the
19 legislation requires local government approvals as part of
20 a local government process, and so we have lessened
21 discretion in these kinds of funds. There is discussion
22 about using it in the export program. Can't do it. The
23 legislation is written too restrictively.

24 I would encourage us to go back, and I'm not sure
25 where our geothermal program is, is that under Mr. Surles,

1 Steve?

2 MS. SISON-LEBRILLA: Yes.

3 COMMISSIONER LAURIE: Yeah, I would ask us to ask
4 that -- ask Terry Surles to go back and look at the
5 legislation, and its original intent and determine whether
6 or not we want to recommend modifications to that
7 legislation, because it is very restrictive.

8 And today's conditions may be different, and we
9 may want to modify the legislation consistent with today's
10 opportunities.

11 CHAIRPERSON KEESE: A very good point.

12 Do I have a motion on this?

13 COMMISSIONER LAURIE: Yes.

14 COMMISSIONER ROSENFELD: Second.

15 CHAIRPERSON KEESE: Motion Commissioner Laurie,
16 second Commissioner Rosenfeld.

17 All in favor?

18 (Ayes.)

19 CHAIRPERSON KEESE: Opposed?

20 Adopted five to nothing.

21 Thank you.

22 Item 17, finally, Three Mountain Power Project.
23 Consideration of possible adoption of Presiding Member's
24 Proposed Decision of a 500 megawatt natural gas fire,
25 Three Mountain Power Project Application for

1 certification.

2 Mr. Bouillon.

3 MR. BOUILLON: Thank you, Mr. Chairman.

4 This item --

5 CHAIRPERSON KEESE: Get real close to this
6 microphone, Mr. Bouillon.

7 MR. BOUILLON: Excuse me?

8 CHAIRPERSON KEESE: You've got to get real close
9 to it or we don't hear you.

10 MR. BOUILLON: This item is before for you for
11 consideration and possible adoption of the presiding
12 members proposed decision, authored by Chairman Keese,
13 recommending approval of the Application For Certification
14 of a 500 megawatt power plant about 45 miles east of
15 Redding, California in a little town of Burney, near
16 Burney Falls State Park.

17 There has been extensive participation by all of
18 the parties in this matter. I want to point out to the
19 Commission that the applicant, Three Mountain Power
20 Project, a Limited Liability Corporation is now a
21 subsidiary of Covanta, I believe, it's Covanta Energy
22 Corporation, which is a name change from Ogden Energy
23 Corporation through varying sets of subsidiaries, which
24 are covered in the errata.

25 In addition, one of the participants was the

1 CURE, the California Union for Renewable Energy. They
2 were instrumental in negotiating an agreement with the
3 applicant to go from a wet cooling system to a wet dry
4 cooling system, substantially reducing the amount of water
5 that would be needed by the project.

6 In addition, the Department of Parks and
7 Recreation participated as an intervenor and also
8 negotiated further agreements, which resulted in
9 substantial funding to the California Department of Parks
10 and Recreation for a demonstration project at Burney Falls
11 State Park.

12 In addition, to mitigate logical resource
13 concerns there's a \$100,000 contribution being made by the
14 applicant to study aquatic and US geomorpholics in the
15 area, and \$250,000 to study the Shasta Crayfish barrier to
16 protect that population, which is an endangered species.

17 In addition, the Burney Resource Group, a group
18 made up of the local citizenry in the Burney Area
19 participated to express the local community concerns.
20 They raised several issues, and have hotly contested
21 several issues in committee hearings.

22 Their comments are on the Presiding Member's
23 Proposed Decision indicate that they are still
24 dissatisfied with the air quality part of this decision.

25 They have, since the inception of this proceeding

1 advocated these SCO-NOx, but the Committee found that
2 SCO-NOx was not adaptable to a project of this size, and
3 instead has gone with the SCR technology, advocated by
4 both applicant and staff as an independent party.

5 We have prepared an errata after comments from
6 all of the parties, which results really in minor
7 technical changes and unless -- I've spoke with the
8 applicant and the staff, neither of them see any need to
9 make a statement to the Commission, unless the Commission
10 has questions.

11 I have not been contacted by any of the other
12 intervenors and I do not believe any of them are present.
13 I believe both the staff and applicant recommend approval
14 of the Presiding Member's Processed Decision.

15 CHAIRPERSON KEESE: I see two nods. I see more
16 than two nods, nods from two sections of the audience.

17 Do we have any intervenors on this issue who care
18 to comment?

19 I see none.

20 Could I have a motion?

21 COMMISSIONER LAURIE: Move the recommendation.

22 COMMISSIONER ROSENFELD: Second.

23 CHAIRPERSON KEESE: Commissioner Laurie moves.
24 Commission Rosenfeld seconds.

25 Any comments from Commissioners?

1 All in favor?

2 (Ayes.)

3 CHAIRPERSON KEESE: Opposed?

4 Staff, did you want to make any kind of a
5 comment?

6 It was a wonderful presentation.

7 COMMISSIONER LAURIE: Mr. Chairman, I would just
8 like to note that I was second. You, however, as
9 Presiding Member do take full responsibility on the case,
10 and I offer my thanks and congratulations for a job well
11 done. Certainly, staff did their normal extraordinary job
12 and the applicant did everything that they were supposed
13 to do as well.

14 On a more general arena, that brings up 9,000
15 megawatts, 9,100 or so that we've approved since we have
16 had a competitive generation industry. And we have been,
17 we meaning the Energy Commission, have been doing that
18 work since I got here in January of '97 or before
19 preparing for the applications and processing them.

20 And today we find a lot of folks taking credit
21 for that. As Energy Commissioner, I like to do that.
22 Senior Management likes to do that. Politicians of all
23 sorts like to do it. I would just note that, again,
24 credit for the amount of power that we are approving,
25 whether or not it will ever be brought on line depends on

1 upon factors way out of our control, but that credit goes
2 to the men and women of our siting teams that have been
3 working nights and weekends for literally the last four
4 years to get this power on line.

5 And I will repeat that I hope when we're able to
6 take a deep breath that the leaders of this State will
7 acknowledge their efforts.

8 Thank you.

9 CHAIRPERSON KEESE: Thank you.

10 MR. BOUILLON: Mr. Chairman, if I might make one
11 last statement.

12 CHAIRPERSON KEESE: Yes.

13 MR. BOUILLON: In light with Mr. Laurie's
14 comment, I am going to take a deep breath and retire.
15 This is my opportunity to say goodbye to each of you.
16 I'll get this final decision out in the next few days and
17 at the end of the month, you can color me gone.

18 (Laughter.)

19 COMMISSIONER LAURIE: See you out at the country
20 club.

21 MR. BOUILLON: I want to express my pleasure at
22 working for and with each of you, some of you to a more
23 limited extent than others, but it has been a grand
24 experience over the past several years.

25 Thank you.

1 CHAIRPERSON KEESE: Thank you, Mr. Bouillon.

2 I will say for the other Commissioners, there was
3 a unique feature on this siting case. And that was nobody
4 knows where the water flows in this area.

5 And trying to site a power plant with the use of
6 water where nobody knows where it comes from or goes
7 turned out to be a challenge.

8 COMMISSIONER MOORE: A challenge.

9 COMMISSIONER LAURIE: However, Mr. Chairman, I
10 would note for purposes of the record that the evidence
11 provided was very substantial for us to make an
12 appropriate finding.

13 (Laughter.)

14 CHAIRPERSON KEESE: It certainly was. Again,
15 saying anything, you're happy. You're out of here.

16 Okay, Item 18, East Altamont they'll move that
17 one to the 21st.

18 That takes care of Item 19.

19 We issued a late notice regarding Modesto
20 Irrigation District for purposes of making sure that we
21 are timely, we're going to put that one over to our
22 hearing on the 30th, at which time I will entertain a
23 motion that Commissioner Moore be the Presiding Member and
24 Commissioner Pernell be the second member.

25 COMMISSIONER LAURIE: Can we make that motion now

1 and get it over with?

2 (Laughter.)

3 CHAIRPERSON KEESE: We could, but we're going to
4 wait till the 30th.

5 CHIEF COUNSEL CHAMBERLAIN: Mr. Chairman, if
6 there is an urgency in creating a committee allowing it to
7 start it's work, we could put that over to the 21st.

8 CHAIRPERSON KEESE: Siting staff informs me there
9 is no urgency.

10 CHIEF COUNSEL CHAMBERLAIN: Okay.

11 COMMISSIONER LAURIE: Mr. Chairman, I'm sorry
12 were you done?

13 CHAIRPERSON KEESE: I'm done with that item.

14 COMMISSIONER LAURIE: We have a special meeting
15 on Monday, right, and what's on the agenda? Is it just
16 Gilroy?

17 CHAIRPERSON KEESE: I believe it's just one case.

18 COMMISSIONER LAURIE: I'm Presenting member on
19 Gilroy. I will be calling in from out of town to
20 participate in that meeting. I need to ask counsel, do we
21 need to amend our regulations to ensure that one can
22 attend -- that a Commissioner can attend a meeting by
23 telephone, because it's not there, and more and more we're
24 finding that we have to do that.

25 So don't worry about it now, Bill, but I'd ask

1 you to look at that. And if a regulatory change is
2 necessary, I would ask the Commission to consider that.

3 Also, along the same lines, when we have
4 licensing hearings at the full commission or other issues
5 that will be of controversy or will provide for a lot of
6 public participation, I suggest that when we create the
7 agenda, we set those for time certain. You could do that,
8 so the Commissioners know when they need to call in, so
9 the public needs to know when they can call in, and then
10 we take it up when the time comes and then go back to the
11 regular agenda when we're done with that item.

12 COMMISSIONER PERNELL: I would certainly concur
13 with those comments.

14 CHAIRPERSON KEESE: Thank you. I will clarify
15 that we had checked on the appropriateness of call-ins
16 previously, and had had it cleared. I believe it would be
17 appropriate to have a memorandum from our counsel telling
18 us what their findings were. I would note having read the
19 paper this morning that the PUC met yesterday with two
20 members present and three on the phone from diverse sites
21 and took their rate action at that time. The same rules
22 apply for us.

23 COMMISSIONER LAURIE: Three others were calling
24 in from conference rooms A, B and C located elsewhere in
25 the building.

1 (Laughter.)

2 CHAIRPERSON KEESE: For some reasons they chose
3 not to be there.

4 EXECUTIVE DIRECTOR LARSON: Theoretically, you
5 could have a meeting where nobody is actually in the room.

6 COMMISSIONER LAURIE: Often our meetings appear
7 like that, Mr. Larson.

8 (Laughter.)

9 CHAIRPERSON KEESE: So if counsel would be
10 willing to give us just a little --

11 CHIEF COUNSEL CHAMBERLAIN: I certainly will do
12 so. I can simply reference for the record, though, that
13 Government Code Section 11123 covers this. And so I will
14 give a memorandum.

15 CHAIRPERSON KEESE: Yeah, I think a memorandum
16 would be nice.

17 SECRETARY BECKSTROM: And may I say something on
18 behalf of the secretariat.

19 COMMISSIONER PERNELL: State your name for the
20 record.

21 (Laughter.)

22 SECRETARY BECKSTROM: My name is Lana Beckstrom,
23 acting secretariat. It is possible to do this in regards
24 to the conference calls and it would just be really
25 helpful if we could make notes that that item would be

1 first on the agenda so that we could take care of
2 everything.

3 CHAIRPERSON KEESE: It's a very good idea.
4 Commissioner Laurie has made a good point here for us, so
5 I think we will.

6 COMMISSIONER LAURIE: First one this year.
7 (Laughter.)

8 CHAIRPERSON KEESE: We have no minutes to be
9 heard.
10 Commission Committee or Oversight?

11 Chief Counsel's report?

12 CHIEF COUNSEL CHAMBERLAIN: Yes, Mr. Chairman.
13 We have a couple of brief items for closed session,
14 litigation items.

15 CHAIRPERSON KEESE: Okay, thank you.
16 Executive Director's Report?

17 EXECUTIVE DIRECTOR LARSON: We have another
18 session or another get together, where we're going to talk
19 about the impacts on the Commission staff efforts.

20 CHAIRPERSON KEESE: Fine.

21 EXECUTIVE DIRECTOR LARSON: Also a briefing on
22 power authority bill.

23 CHAIRPERSON KEESE: I do have one question that I
24 would like to propose. I know that we filed at the Public
25 Utilities Commission regarding curtailment plans that

1 might apply to oil refiners, specifically, we filed, I
2 believe, on the 25th of April.

3 EXECUTIVE DIRECTOR LARSON: That's the last
4 filing. We actually --

5 CHAIRPERSON KEESE: I believe we filed again
6 within the last two or three days.

7 EXECUTIVE DIRECTOR LARSON: That's right.

8 CHAIRPERSON KEESE: Have we had any response from
9 the Public Utilities Commission to these filings?

10 EXECUTIVE DIRECTOR LARSON: Well, to the first
11 filing, the Commission responded with an order that
12 recognized our submittals, but said that they would take
13 it on a case-by-case basis when an applicant wanted to
14 appeal a situation that they might be on, such as
15 refiners, but that they didn't grant them -- they didn't
16 put them into the category of those exempted at that time.

17 We filed the second filing last week, which again
18 outlines the Commission's view along health and safety
19 reasons, but also to suggest that there may be overriding
20 economic interests in some cases, such as refineries and
21 their ancillary services. We haven't had a response to
22 that -- there hasn't been a response to that filing.

23 CHAIRPERSON KEESE: Having had our experience
24 earlier this year where a number of our airports were
25 within hours of running short of fuel because of

1 curtailments and recognizing that the situation of the
2 fuel situation for this summer is already taut, let's say,
3 we have a tight situation, and if we lose a refinery, we
4 will have a worse situation.

5 I would like the staff -- I would like us, as a
6 Commission, to do everything possible to see that we don't
7 cause a fuel situation by seeing a refinery go down
8 because it is curtailed in a systematic curtailment
9 program.

10 You know, I don't know what else we can do other
11 than file with the PUC, but I would just -- it would be
12 absolutely terrible if when we see this situation ahead of
13 us to have it happen.

14 EXECUTIVE DIRECTOR LARSON: There are ongoing
15 interactive administrative things where we try to
16 represent the cases strongly as possible, outside of the
17 PUC forum, as well as the PUC forum, and we'll continue to
18 do that.

19 CHAIRPERSON KEESE: Thank you.

20 COMMISSIONER PERNELL: Well, Mr. Chairman, if I
21 could comment on it. I agree with you, but just for the
22 record under no circumstances will we be the cause of any
23 curtailment, because that is not in our venue. So I
24 understand what you're saying, but I don't want it to be
25 misconstrued that somehow the Energy Commission would be

1 the cause of any curtailment.

2 CHAIRPERSON KEESE: I concur. I'm saying that
3 since this falls in our purview and we've reviewed it and
4 we see how taut -- how tight a market we have, what a
5 tight market we have, we know there's an inability to
6 solve it for three, four, five weeks if we have just one
7 little blip to consider that oil refineries, which I think
8 we acknowledge are, when they go down for an hour and a
9 half, may not come back up.

10 They'll be back up and running in a week or ten
11 days if everything works, but 50 percent of the time they
12 don't come back up. That just seems to me to be --

13 COMMISSIONER MOORE: Well, they don't come back
14 in a reasonable amount of time.

15 CHAIRPERSON KEESE: That just seems to me we have
16 to keep them going. They're a 24/7 industry that I'm sure
17 there are others that we have to look at in the same
18 light, but one of our special purviews has been fuels.
19 And I would just like -- I think we've got to emphasize
20 that point.

21 COMMISSIONER PERNELL: And I agree, but unless --
22 perhaps I'm wrong, I don't think that -- regardless of how
23 we respond to the PUC in terms of comments and the
24 importance of keeping these refineries on line, it is not
25 up to us is the point I'm making.

1 CHAIRPERSON KEESE: Thank you.

2 Anything else?

3 EXECUTIVE DIRECTOR LARSON: No.

4 CHAIRPERSON KEESE: Public Adviser's report.

5 PUBLIC ADVISER MENDONCA: Mr. Chairman, nothing
6 at this time.

7 CHAIRPERSON KEESE: Thank you.

8 Do we have any other public comment?

9 Seeing none, what we're going to do then is we
10 are going to move to the third floor conference room where
11 staff is going to give us a briefing. No items will be
12 taken up for action. This will be a public meeting.
13 Actually, we have an executive session. We'll do an
14 executive session right in here first.

15 COMMISSIONER LAURIE: Can we do it up stairs,
16 because I have to get my book.

17 CHAIRPERSON KEESE: We'll do executive session in
18 my office and then we will move at noon to the third floor
19 conference room. We'll move at 12:00 o'clock to the third
20 floor conference room for a briefing by staff.

21 (Thereupon the Energy Commission meeting
22 adjourned at 11:55 a.m.)

23

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25

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Energy Commission hearing was
7 reported in shorthand by me, James F. Peters, a Certified
8 Shorthand Reporter of the State of California, and
9 thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 25th day of May, 2001.

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